

State of South Dakota

NINETIETH SESSION
LEGISLATIVE ASSEMBLY, 2015

189W0216

HOUSE BILL NO. 1181

Introduced by: Representatives Rounds, Haggar (Don), and Johns and Senators Haggar (Jenna), Brown, Hunhoff (Bernie), Lederman, and Tieszen

1 FOR AN ACT ENTITLED, An Act to authorize the manufacture of cider in certain amounts.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. Terms used in this Act mean:

4 (1) "Cider," as defined in subdivision 35-1-1(3A);

5 (2) "Cider license," a license issued by the Department of Revenue to allow for the
6 manufacture of cider of no more than eight point five percent alcohol within the state;

7 (3) "Cider maker," any winery, distillery, brewery, or alcohol manufacturer creating
8 cider.

9 Section 2. The secretary of the Department of Revenue may issue a cider license to a cider
10 maker located within the state and producing ciders as defined in this Act. A license may be
11 issued and renewed for an annual fee of one hundred dollars. The fee shall be deposited in the
12 general fund.

13 Section 3. Except as otherwise specified in this Act, the provisions of title 35 apply to the
14 production, sale, possession, and consumption of cider.

15 Section 4. The holder of a cider license may manufacture cider in the state from South



1 Dakota produced or grown fruit, as listed in subdivision 35-1-1(3A). If South Dakota produced
2 or grown fruit as listed in subdivision 35-1-1(3A) is not available in quantities sufficient to
3 constitute a majority of the cider produced by a cider maker, the holder of the cider license may
4 file an affidavit with the secretary of the Department of Revenue stating this fact and requesting
5 that the secretary approve the use of imported products by the cider maker. If the secretary
6 approves, the cider maker may use imported products and shall continue to be governed by the
7 provisions of this Act. The secretary's approval is effective for a period of one year, after which
8 the cider maker shall use South Dakota produced or grown fruit as listed in subdivision 35-1-
9 1(3A) unless the cider license holder files a new affidavit and request with the secretary and the
10 secretary approves the request.

11 Section 5. A license issued pursuant to this Act authorizes the sale on the cider maker
12 premises of cider produced by the cider maker at on-sale or off-sale, in retail, or wholesale lots
13 in total quantities not to exceed fifty thousand gallons in a calendar year, in addition to
14 glassware, literature and accessories, food products, South Dakota made products, and the
15 dispensing of free samples of ciders offered for sale. Any such sales at on-sale and off-sale may
16 be made at any time during the week except on Sundays when no such on-sale and off-sale sale
17 may be made between twelve noon and twelve midnight.

18 Section 6. The licensee shall register labels for each type or brand produced with the
19 secretary of the Department of Revenue, in the same manner and at the same rate as prescribed
20 for wine in chapter 39-13, before sale. If the label or brand states or implies in a false or
21 misleading manner a connection with an actual living or dead Native American leader, the
22 secretary shall reject the registration of the label.

23 Section 7. There is hereby levied on all cider, manufactured or produced by a South Dakota
24 cider maker, an excise tax imposed at the same rates and collected and administered in the same

manner as the tax imposed on cider in chapter 35-5.

Section 8. The excise tax on cider established by this Act shall be paid quarterly to the secretary of the Department of Revenue on or before the fifteenth day of the month following the quarter in which the first sale is made in this state by a licensed cider maker and shall be deposited in the general fund. The cider maker shall file with the secretary a return in the form prescribed by the secretary and shall keep records and render reports required by the secretary in rules promulgated pursuant to chapter 1-26.

Section 9. A cider maker shall maintain records of all sales and shipments. The cider maker shall provide to the department monthly reports regarding quantities and prices of distilled spirits shipped and other information that the department determines to be necessary.

Section 10. The secretary of the Department of Revenue shall promulgate rules, pursuant to chapter 1-26, establishing the criteria and procedures for obtaining a cider license and the procedures for collecting the excise tax pertaining to a cider maker.

Section 11. The holder of a cider license may also hold, on the premises where the cider is produced, an on-sale license issued pursuant to subdivision 35-4-2(4) or (6) and subject to the quota established in § 35-4-11 or 35-4-11.1, and an off-sale license pursuant to subdivision 35-4-2(19).

Section 12. That subdivision (19) of § 35-4-2 be amended to read as follows:

(19) Off-sale package wine dealers in table wines, sparkling wines, sacramental wine, and distilled spirits produced from product provided to an artisan distiller by the respective farm winery to be operated in conjunction with a farm winery established pursuant to chapter 35-12, and ciders produced by cider makers established pursuant to sections 1-to 12, inclusive, of this Act--one hundred fifty dollars;